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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,314	11/13/2001	Paul F. Nugent JR.	9868.00	5408

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EXAMINER

PAIK, STEVE S

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/054,314	NUGENT, PAUL F.
	Examiner	Art Unit
	Steven S. Paik	2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 15 August 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-8 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 3-6 and 8 is/are allowed.

6) Claim(s) 1,2 and 7 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 13 November 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)      4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) Notice of Informal Patent Application (PTO-152)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.      6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 15, 2003 has been entered.

### ***Response to Amendment***

2. Receipt is acknowledged of the Amendment filed August 15, 2003.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larson et al. (US 6,369,709) in view of Baitz et al. (USP 5,412,191, hereinafter Baitz).

Regarding claims 1, 2, and 7, Larson et al. disclose a self-service checkout system (10 in Figs. 1 and 3) and a method of using the system (The system mainly performs check-in and check-out functions of library books, CD, and other circulation material. In column 33, lines 52+, Larson et al. further disclose that the system is enabled to process a chargeable loan and receive a loan fee or fine. This process undoubtedly may be considered as a sale of an item (service or action of loaning)). The system and method comprise a checkout counter (cradle 14),

a computer (microprocessor 60 and see column 7, lines 27+) with the checkout counter, a barcode reader (18 in Fig. 1 and col. 4, ll. 66-67) coupled to the computer (Fig. 1) for reading a barcode label (16 and col. 5, ll. 52-53) on an item (16 and col. 4, ll. 55-60) and a security system (a controller, see col. 2, ll. 13+ and col. 3, ll. 42-45) separate from (see Fig. 1) and adjacent to the barcode reader (18) and coupled to the computer and activated by the barcode reader (col. 3, ll. 33-35) following reading of the barcode label which includes a field generator (24, col. 5, ll. 34-45) for deactivating a security label (security marker) on the item (a circulating item), and a sensor (20 and 22) sensing placement of the item within range of the field generator (col. 5, ll. 42-45 and col. 5, ll. 55-64). Larson et al. further disclose a display (28 and col. 6, ll. 4-9) initiated by the security system (controller and col. 2, ll. 37-40) showing a message following the reading of the barcode label instructing an operator (a library patron) to place the item within a deactivation range of the field generator (24) until the sensor (20 and 22) senses the placement.

Although Larson et al. disclose a self-service checkout system including a computer, a barcode reader, and a security system, the reference does not specifically disclose the system with distinctive differences in operation mode such as a self-service mode and assisted service mode and a barcode reader being mounted in a check out counter.

Baitz discloses a service desk such as a check-in or check-out system with a self-service mode (Fig. 1) and an assisted-service mode (Fig. 2) comprising, among other things, at least one reader (an optical scanner bar-code reader is located under the check out counter; col. 6, ll. 28-39, and see Fig. 3) for machine-readable data. The display unit of the system allows a user (operator/customer) to receive appropriate instructions according to a desired task (col. 5, line 67). A check-in and checkout system with such a design disclosed by Baitz allows the user to

easily scan items with a machine-readable indicia since the reader is located below a transparent window of a counter. The user simply brings his items and passes them on the counter without intentionally attempting to reach the scanning beam of the reader.

In view of Baitz's teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to further employ a check-in/check-out system having a means for reading a machine-readable symbol on an item located in the traveling path of the item in addition to the check-out system of Larson et al. due to the fact that more efficient and user-friendly data processing can be achieved by an operator with or without an assistance for the purposes of saving time, reducing the possibility of making unnecessary adjustment while completing a transaction. Furthermore, such modification would have been an obvious matter of design variation, well within the ordinary skill in the art, and therefore an obvious expedient.

***Allowable Subject Matter***

5. Claims 3-6 and 8 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: The previously cited prior arts of the record, Baitz et al. (US 5,421,191) and Larson et al. (US 6,369,709) taken alone or in combination of other references do not teach, disclose or fairly suggest the claimed method and apparatus of a check-out system comprising, among other things, a pop-up housing on an assisted-service side of the check out counter adjacent the field generator and vertically movable between a raised position for self-service checkout operation and a recessed position for assisted-service checkout operation. Since none of the prior arts of the record disclose the pop-up housing containing a sensor for assisting only self-service customers with proper deactivation of security labels, one of ordinary skill in the art would not

have been motivated to modify teachings of prior art to meet the claimed limitations as set forth in the present claimed invention.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-8 have been carefully considered. The examiner notes claims 1 and 3-8 have been amended to further distinguish over the cited references.

**35 U.S.C. § 103 Rejection:**

Applicant argues that claims 1 and 3-8 contain further limitations to distinguish Applicant's claims from the library checkout system of Larson. The examiner respectfully disagrees. As discussed in this Office Action, Larson clearly discloses that the checkout terminal for library and the like includes a cash slot for financial transactions. The financial transaction includes charging for loan fees and collecting late fees. The charge for loan fee of a circulating item is analogous to selling an item. The item in Larson's case would be a circulating item such as a book, a CD, and the like. Therefore, Larson in view of Baitz still reads on the recited claims 1, 2, and 7.

Accordingly, claims 1, 2 and 7 are rejected for the reasons discussed above.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven S. Paik whose telephone number is 703-308-6190. The examiner can normally be reached on Mon - Fri (5:30am-2:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-746-6893 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0530.



Steven S. Paik  
Examiner  
Art Unit 2876

ssp  
September 13, 2003